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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,490	10/25/2001	Josef Stefan Kohne	BROKAW-40124	3321

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EXAMINER

HAAS, WENDY C

ART UNIT	PAPER NUMBER
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1661

2

DATE MAILED: 02/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/046,490

Applicant(s)

KOHNE, JOSEF STEFAN

Examiner

Wendy C Haas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Interview Summary

Application No.

10/046,490

Applicant(s)

KOHNE, JOSEF STEFAN

Examiner

Wendy C Haas

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All participants (applicant, applicant's representative, PTO personnel):

(1) Wendy C Haas. (3)_____.

(2) Aaron Borrowman. (4)_____.

Date of Interview: 30 January 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: the claim.

Identification of prior art discussed: as cited in Form PTO-892.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Examiner telephoned applicant's attorney to inform him that original photographs were destroyed by irradiation; to request replacements and an additional photograph, and to inform him of the upcoming Office Action.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☒ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

DETAILED ACTION**Drawings**

The drawings are objected to under 37 CFR 1.165(a) as they are not in color. New drawings, in color are required.

Foreign Priority

Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in South Africa on July 25, 1982. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter. In addition, the priority papers filed do not appear to be drawn to the claimed plant.

35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the statutory basis for the rejection:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The claimed *Persea americana* variety 'MERENSKY 2 / DUSA' is described in Breeder's Right application number **PBR 02604** filed in South Africa on September 15, 1998. The application was published on October 15, 1998, more than one year prior to the filing date of the instant application. 'MERENSKY 2 / DUSA' is also described in Breeder's Right application number **PBR 02605** filed in South Africa on September 15, 1998. The application was published on October 15, 1998, more than one year prior to the filing date of the instant application. The published application and denomination are "printed publications" under 35 U.S.C. 102 because they are accessible to persons concerned with the art to which the document relates. See *In re Wyer*, 655 F.2d 221, 226, 210 USPQ 790, 794 (CCPA 1981). See also MPEP § 2128.

The cited applications are accessible to the public. The South African Plant Variety Journal is published quarterly; publication of information in the South African Plant Variety Journal is intended to satisfy the requirements of the International Union for the Protection of New Plant Varieties (UPOV) and to facilitate the activities of other interested parties.

Thus information regarding the claimed variety, in the form of the publication noted above, may have been readily available to interested persons of ordinary skill in the art.

A printed publication can serve as a statutory bar under 35 U.S.C. 102(b) if the reference, combined with knowledge in the prior art, would enable one of ordinary skill in the art to reproduce the claimed plant. *In re LeGrice*, 301 F.2d 929, 133 USPQ 365 (CCPA 1962). If one skilled in the art could reproduce the plant from a publicly available source, then a publication

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describing the plant would have an enabling disclosure. See *Ex parte Thomson*, 24 USPQ2d 1618, 1620 (Bd. Pat. App. & Inter. 1992) (“The issue is not whether the [claimed] cultivar Siokra was on public use or sale in the United States but, rather, whether Siokra seeds were available to a skilled artisan anywhere in the world such that he/she could attain them and make/reproduce the Siokra cultivar disclosed in the cited publications.”)

The prior art shows the instant plant was publicly available more than one year prior to filing of the instant application. Menge teaches use of ‘MERENSKY 2’ in Southern California no later than 1993. The reference from **WESTFALIA NURSERY** teaches use of ‘MERENSKY 2’ in a “semi-commercial Hass planting at Westfallia Estate (established in 1993)”.

The publications cited above disclose the claimed plant variety, and show the South African Plant Breeder’s Rights references are enabled. As the application was published more than one year prior to the filing date of the instant US application and the plant was publicly available, the published applications, combined with knowledge in the prior art, would have enabled one of ordinary skill in the art to reproduce the claimed plant. The claim is rejected.

35 USC § 102/ 103

The appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action are set forth above.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 102(b) as anticipated by any one of the ARC reference, or the AvocadoWebSite references for Edranol, Ettinger or Fuerte based upon a public use or sale of the invention or, in the alternative, under 35 U.S.C. 103(a) as obvious over each of these references.

In the first paragraph of page 2 of the specification, applicant discloses that two cultivars from the group consisting of ‘Edranol’, ‘Ettinger’, ‘Fuerte’ and ‘Merensky 2’ are genetically identical. The specification does not disclose which two cultivars are genetically identical and does not patentably distinguish ‘Merensky 2’ from any of the other 3 cultivars as cited in the references above. Applicant states the instant plant was discovered in an orchard, but provides little additional information regarding its origin. Orchards are planted with hundreds or thousands of trees at a time. On occasion, a tree may be of a different cultivar than what the grower ordered for planting. Accordingly, it is possible that applicants “discovered” “new” cultivar is a plant of one of the three cultivars cited above. If so, such a plant would not qualify

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for patent protection under 35 USC § 102(b), as 'Edranol', 'Ettinger', and 'Fuerte' have been publicly used in the United States since 1932, 1954, and 1911, respectively.

Even if the claimed plant is not a 'Edranol', 'Ettinger', or 'Fuerte' plant, it is obvious over the cultivar it is genetically identical to. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Application of the *Graham v. John Deere* test is different for applications filed under 35 USC § 161. The criteria for obviousness of a plant are set forth in *Yoder Brothers, Inc. v. California-Florida Plant Corporation, et al.*, 193 USPQ 264 (CA 5 1976). In that decision, the court cited "the legislative history of the Plant Patent Act," and noted "[t]he Senate Report said: [I]n order for the new variety to be distinct it must have characteristics clearly distinguishable from those of existing varieties and it is immaterial whether in the judgment of the Patent Office the new characteristics are inferior or superior to those of existing varieties." 193 USPQ at 291.

The court went on to state:

"[r]ephrasing the John Deere tests for the plant world, we might ask about (1) the characteristics of prior plants of the same general type, both patented and nonpatented, and (2) the differences between the prior plants and the claims at issue. We see no meaningful way to apply the third criterion to plants -- i. e. the level of ordinary skill in the prior art . . . We think that the most promising approach toward the obviousness requirement for plant patents is reference to the underlying constitutional standard that it codifies . . . If the plant is a source of food, the ultimate question might be its nutritive content or its prolificacy. A medicinal plant might be judged by its increased or changed therapeutic value. Similarly, an ornamental plant would be judged by its increased beauty and desirability in relation to the other plants of its type, its usefulness in the industry, and how much of an improvement it represents over prior ornamental plants, taking all of its characteristics together. 193 USPQ at 292-93.

As such, the Examiner's reasoning that the claimed plant is obvious is as follows:

1. Determining the scope and contents of the prior art

The prior art discloses avocados and avocado rootstocks.

2. Ascertaining the differences between the prior art and the claims at issue

The prior art is genetically identical to the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art

This part of the test need not be addressed.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness

The application states the claimed plant is genetically identical to either 'Edranol', 'Ettinger', or 'Fuerte'. It does not provide any information to distinguish the claimed plant from any of these three cultivars.

Objection to the Disclosure

37 CFR 1.163

The following is a quotation of section (a) of 37 CFR 1.163:

(a) The specification must contain as full and complete a disclosure as possible of the plant and the characteristics thereof that distinguish the same over related known varieties, and its antecedents, and must particularly point out where and in what manner the variety of plant has been asexually reproduced. In the case of a newly found plant, the specification must particularly point out the location and character of the area where the plant was discovered.

35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

As specific to United States Plant Patent applications, the specifics of 37 CFR 1.164 (reproduced below) are controlling:

The claim shall be in formal terms to the new and distinct variety of the specified plant as described and illustrated, and may also recite the principal distinguishing characteristics. More than one claim is not permitted.

In plant applications filed under 35 U.S.C. 161, the requirements of 35 U.S.C. are limited. The following is a quotation of 35 U.S.C. 162:

No plant patent shall be declared invalid for noncompliance with section 112 of this title if the description is as complete as is reasonably possible. The claim in the specification shall be in formal terms to the plant shown and described.

The disclosure is objected to under 37 CFR 1.163 (a) and under 35 U.S.C. 112, first paragraph, because the specification presents less than a full, clear and complete botanical description of the plant and the characteristics which define same per se and which distinguish the plant from related known cultivars and antecedents.

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More specifically:

A. Page 1, after the section titled RELATED APPLICATIONS, applicant should add the following recitation ***under a separate heading, as shown*** in order to comply with new rule 1.160(c)(4):

--

BOTANICAL CLASSIFICATION

Persea americana Mill. --

B. Applicant should provide a photographic illustration of the fruit flesh and stone of the instant cultivar, as the illustration provided must show all the distinctive features of the plant capable of representation. Additional information is needed.

C. Applicant must provide color photographs. Color photographs are required for each distinctive feature of the instant plant capable of visual representation. The claim is to the plant as *illustrated* and described. Illustrations must set forth patentably distinguishable information.

D. Page 2, line 4 “unseful” is not a word. Correction is needed.

E. Section 1612 of the Manual of Patent Examining Procedure states that the proposed cultivar name must also be consistent with the requirements set forth in the International Code of Nomenclature for Cultivated Plants -1980.

Specifically: Article 4 of the former states the importance of cultivar name registration for nomenclature stability; Article 51 states (in part): “When confusion is caused by the use of the same name for two or more widely grown cultivars in the same cultivar class (see Art. 50), the cultivar for which it is the legitimate name is the one selected by a registration authority, or failing this, the cultivar first chosen and published as legitimately bearing the name...” and Article 53 states that cultivar registration is the acceptance of a cultivar name by a cultivar registration authority. MPEP Section 1612 states that “Inclusion of a variety name in the patent comprises its registration.”

As plant names are associated with and used to identify particular plants and are therefore descriptive, for a United States Plant Patent to properly issue, the cultivar name set forth in the specification must be acceptable.

A review of the literature appears to indicate that the first published cultivar name for the instant plant was ‘DUSA’.

Applicant could attempt to overcome this objection (and corresponding rejection as set forth in the claim rejection) by a convincing showing within the prior art of the instant or similarly structured cultivar name designations normally being found acceptable by a recognized registration authority, or preferable by changing the cultivar name. In any event, information to

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the use of the name 'O-1' as a breeder's reference number and/or testing designation should be retained in the specification.

An additional problem with the instant type of cultivar name designation is that the inconsistent cultivar name amplifies the potential for confusion within the market-place (see MPEP 1612).

F. Page 2, paragraph 3, applicant talks about fruit but it is unclear whether he intends to indicate the fruit is from the instant cultivar, or that it is fruit of another scion grafted on an understock of the claimed cultivar.

G. Applicant should change each instance of the word **FIGURE** to read: --**FIG.**--. As the drawing sheets of record are not so labeled, it is inappropriate to refer to the drawings as **FIGURE** in the specification. The specification and drawings must correspond to each other in this regard.

H. Applicant should indicate the age of the plant described and its location of culture in the Detailed Botanical Description. Applicant should also specify whether the plant described is the claimed plant as a whole or the claimed plant used as an understock for a specific scion.

I. Applicant should italicize or underline botanical names throughout the specification to comply with the custom in the art.

J. Applicant should describe the tree size as a function of Height and Spread at a specific age in a given location of culture.

K. Additional information should be imported into the specification relative to plant vigor so as to more meaningfully describe same. Such could include, (for example) amount of growth over a specified period of time.

L. Applicant should provide a color chart color for lenticels as well as provide size in specified units (i.e. mm, etc.) as well as the typical and observed concentration of same (i.e. # per sq. inch.)

M. Applicant should provide the bark color of the tree with reference to the employed color chart.

N. Applicant should provide the lower surface texture and color for the underside of the young leaves as well as the lower leaf surface texture and leaf vein coloration for the mature leaves of the claimed plant.

O. Applicant should provide more precise information for the dates of bloom.

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P. Applicant should provide information as to the flower type, size, shape, color, anthers, pistils, petals, fragrance and number, as well as provide the date of full bloom in the location of culture.

Q. Applicant should provide the dates of first, last, and full harvest and provide information as to the shipping and keeping quality of the fruit of the instant plant, if available.

R. Page 8, applicant must place a period [.] at the end of the claim.

The above listing may not be complete. Applicant should carefully compare the claimed plant with the botanical descriptions set forth in the specification to ensure completeness and accuracy and to distinguish the plant within this expanding market class. Any further botanical information should be imported into the specification, as should any additional or corrected information relative to same.

Claim Rejection
35 U.S.C. § 112, 1st and 2nd Paragraphs

Claim 1 is rejected under 35 U.S.C. 112, first and second paragraphs as not being supported by a clear and complete botanical description of the plant for reasons set forth in the Objection to the Disclosure Section above, and under 35 U.S.C. 112 first paragraph for the reasons advanced in the objection to the drawing.

Comments

Applicants are advised of the changes to 37 CFR 1.84 which took effect November 29, 2000. In particular, 37 CFR 1.84(e) now states, in part:

Photographs must be developed on paper meeting the sheet size requirements of paragraph (f) of this section and the margin requirements of paragraph (g) of this section.

The USPTO no longer accepts photographs mounted on bristol board, paper or other material. Further information on the new rules is available on the USPTO web site at www.uspto.gov.

Mail sent to the United States Patent and Trademark Office is routinely irradiated due to heightened security concerns. Photographs do not survive this irradiation process. As such, photographs should be:

(1) Mailed to:

P.O. BOX 2327
Arlington, VA 22202

OR

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(2) Hand-delivered or sent via UPS or Federal Express to:

Wendy C. Haas / Art Unit 1661
Technology Center 1600
Reception Area, 7th Floor
Crystal Mall One
1911 South Clark Street
Arlington, VA 22202

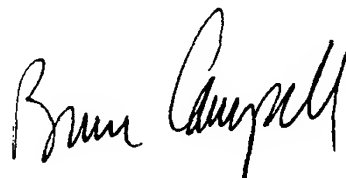
Future Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wendy C. Haas whose telephone number is (703) 308-8898. The Examiner is normally available Monday through Friday from 9 a.m. to 5:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Bruce Campell, can be reached on (703) 308-4205. The fax number for the group is (703) 305-3041 or (703) 308-4242. The Examiner's fax number is (703) 746-3166.

Any inquiry of a general nature or relating to the status of this application should be directed to the Matrix Customer Service Center whose telephone number is (703) 308-0196.

W. C. Haas



**BRUCE R. CAMPPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600**